

CIVIL COMPLAINT FORM TO BE USED BY A PRO SE PRISONER

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Michael Jerome Irby Jr. ND0109

Full Name of Plaintiff

Inmate Number

Civil No. _____

(to be filled in by the Clerk's Office)

Kevin Ransom
Superintendent at SCI Dallas

Name of Defendant 1

☒ Demand for Jury Trial

☐ No Jury Trial Demand

John Wetzel
Secretary OF Department OF Corrections

Name of Defendant 2

Fredrick J. Ammerman
President Judge, Clearfield County

Name of Defendant 3

Name of Defendant 4

Name of Defendant 5

(Print the names of all defendants. If the names of all defendants do not fit in this space, you may attach additional pages. Do not include addresses in this section).

FILED
HARRISBURG, PA

OCT 23 2020

PER

MW
DEPUTY CLERK

I. NATURE OF COMPLAINT:

Indicate below the federal legal basis for your claim, if known.

☒ Civil Rights Action under 42 U.S.C. § 1983 (state, county, or municipal defendants)

☐ Civil Rights Action under Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971) (federal defendants)

☐ Negligence Action under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346, against the United States

II. ADDRESSES AND INFORMATION

A. PLAINTIFF

Irby, Michael, J

Name (Last, First, MI)

ND0109

Inmate Number

ClearField County Jail

Place of Confinement

115 21st Street

Address

ClearField, ClearField, PA, 16830

City, County, State, Zip Code

Indicate whether you are a prisoner or other confined person as follows:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

B. DEFENDANT(S)

Provide the information below for each defendant. Attach additional pages if needed.

Make sure that the defendant(s) listed below are identical to those contained in the caption. If incorrect information is provided, it could result in the delay or prevention of service of the complaint.

Defendant 1:

Ransom, Kevin

Name (Last, First)

Superintendant at SCI Dallas

Current Job Title

SCI Dallas, 1000 Follies road, Dallas, PA 18612

Current Work Address

City, County, State, Zip Code

Defendant 2:

Wetzel, John
Name (Last, First)
Secretary For Department Of Corrections
Current Job Title
1920 Technology Parkway
Current Work Address
Mechanicsburg, PA 17050
City, County, State, Zip Code

Defendant 3:

Ammerman J. Fredrick
Name (Last, First)
President Judge, Clearfield County
Current Job Title
Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830
Current Work Address
City, County, State, Zip Code

Defendant 4:

Name (Last, First)

Current Job Title

Current Work Address
City, County, State, Zip Code

Defendant 5:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

III. STATEMENT OF FACTS

State only the facts of your claim below. Include all the facts you consider important. Attach additional pages if needed.

A. Describe where and when the events giving rise to your claim(s) arose.

SCI Dallas, September 2018 to January 24, 2019.
SCI Dallas, January 2020 to April 7, 2020
Community Corrections Center, April 7, 2020 to July 2020

B. On what date did the events giving rise to your claim(s) occur?

September 2018 through January 2019, January 2020 through
April 2020, and April 2020 through July 2020

C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?)

- On July 18, 2017 I was sentenced to 14 months to 5 years and sent to the Department of Corrections to serve my sentence. On January 2018 I was transported to SCI Dallas where I served my sentence. September 2018 the Superior Court of Pennsylvania vacated my sentence and ordered me to be resentenced. After my sentence was vacated John Wetzel and Kevin Ransom continued to keep control and custody of my body and kept me housed in the Department of Corrections general population, illegally, without a sentence imposed on me in violation of my rights, and without legal authority to have control/custody over my body. I was illegally housed in the DOC's general population from September 2018 until January 2019. I was in the DOC without a sentence from September 2018 until I was resentenced on January 2019. John Wetzel and Kevin Ransom illegally kept me in their custody/control.
- On January 27, 2019 my state sentence of 14 months to 5 years was re-instated. Once again on January 2020 my sentence was vacated again by the Superior Court of Pennsylvania, while I

was I was still in Custody/Control of Kevin Ransom at SCI Dallas. Once again, when my sentence got vacated in January, 2020, Kevin Ransom, and John Wetzel, again kept me housed in the DOC's general population without a sentence since January 2020, until I was released from the DOC on Parole without a sentence on April 7, 2020, I was illegally housed in general population at SCI Dallas without a sentence, and Kevin Ransom, and John Wetzel illegally kept me in their Custody/Control once again without any Authority under law to do so, from January 2020 until April 2020, at SCI Dallas.

- Once released on Parole without a sentence I was sent to the CCC Center (Community Corrections Center) where I was still illegally under the Custody/Control of the DOC without a sentence, until I was released from the CCC center in July 2020.
- I was illegally in the Custody of the Department of Corrections without a sentence for a total of 12 (Twelve) months, the Department of Corrections had no legal authority to have Custody/Control over my body without a sentence imposed upon me, and Kevin Ransom, and John Wetzel's illegal Custody of my body during those 12 months is a violation of the Constitution and Pennsylvania Law.
- Fredrick J. Ammerman is the Judge that imposed the State sentence upon me, and is the Judge that Presided over my case the entire time, through and to the end of both appeals, and is the Judge that resented me both times. Fredrick J. Ammerman, while knowing that my sentence was vacated during the months of September 2018 to January 2019; as well as the months of January 2020 to July 2020, did not order me to be released from the DOC's Custody, and did not order me to be transported and returned to the Custody of Clearfield County. Fredrick

J. Ammerman had a duty, and was required under the Authority of Pennsylvania Law, as well as being required by my Constitutional right to Due Process, and my Constitutional right to bail, to order that I be released from the DOC, and was required to transport me to the Clearfield County Jail, where Pursuant to the Constitution and PA Law I was to be housed/detained until I was re-Sentenced and until a State Sentence was re-imposed upon me, during these months that I was unsentenced Judge Fredrick J. Ammerman was required to order me to return to the Custody of the Clearfield County Jail; Fredrick J. Ammerman was also required as a matter of Constitutional right, and required under Pennsylvania Law to re-instate my bail during the months that I was unsentenced when the Superior Court vacated my Sentence, and I was required to be afforded an opportunity to post bail during these months that I was unsentenced. Fredrick J. Ammerman, violated my rights under the PA, and United State Constitution as well as violated PA Law, because under PA law, once a Sentence is vacated it is a legal nullity and a defendant is restored to Status of unsentenced, and is Classified as a Pretrial detainee once again. Fredrick J. Ammerman, while knowing the law, and while knowing that my Sentence was vacated, intentionally left me in the Custody of the DOC without a Sentence; and intentionally did not re-instate my bail, to the effect I was not afforded an opportunity to post bail during this time period, and I was illegally forced to sit in Prison, and remain under the Custody of the Department of Corrections illegally for a total period of 12 months; and I was illegally denied my right to post bail and be at liberty during these months that I was unsentenced, due to this deliberate illegal act done by Fredrick J. Ammerman.

IV. LEGAL CLAIM(S)

You are not required to make legal argument or cite any cases or statutes. However, state what constitutional rights, statutes, or laws you believe were violated by the above actions. If you intend to assert multiple claims, number and set forth each claim in separate paragraphs. Attach additional pages if needed.

- Eighth Amendment of the United States Constitution Prohibition against Cruel and Unusual Punishment.
- Fourteenth Amendment of the United State Constitution Right to Due Process.
- PA Constitution Art 1, §14, right to bail; right to bail under U.S. Constitution.
- PA Rules OF Appellate Procedure.
- PA Rules OF Criminal Procedure.
- PA Supreme Court/Superior Court Case law.
- False Imprisonment/Wrongful incarceration/illegal Detention.

V. INJURY

Describe with specificity what injury, harm, or damages you suffered because of the events described above.

Emotional Distress, Pain and Suffering, Tramatzation (Tramatized), Mental Damage (Mental Health).

VI. RELIEF

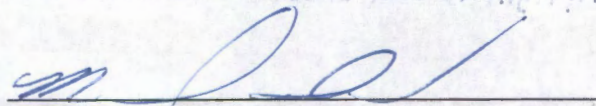
State exactly what you want the court to do for you. For example, you may be seeking money damages, you may want the court to order a defendant to do something or stop doing something, or you may be seeking both types of relief. If you are seeking monetary relief, state your request generally. Do not request a specific amount of money.

I am seeking Monetary relief/money damages; in the form of Punative damages, Compensation; I would like to recieve money Payment in every legal form appropriate Pursuant to my right, For everyday I was illegally detained/incarcerated.

VII. SIGNATURE

By signing this complaint, you represent to the court that the facts alleged are true to the best of your knowledge and are supported by evidence, that those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

Local Rule of Court 83.18 requires *pro se* plaintiffs to keep the court informed of their current address. If your address changes while your lawsuit is being litigated, you must immediately inform the court of the change in writing. By signing and submitting the complaint form, you agree to provide the Clerk's Office with any changes to your address where case-related papers may be served, and you acknowledge that your failure to keep a current address on file with the Clerk's Office may result in dismissal of your case.



Signature of Plaintiff

10/19/20

Date

Dear: Clerk OF Court OF the United States District Court
For the Middle District

Enclosed is a Completed Civil Complaint, Which is to be
Filed with your Court upon receipt; the attached documents are:

1. ProSe Civil Complaint (1 copy)
2. Application to Proceed in Forma Pauperis (1 copy)
3. Notice OF lawsuit and request to waive Service OF Summons (1 copy)
4. Waiver OF the Service OF Summons Form (1 copy)

- Please File these documents with the Court.

Thank you

Michael Jerome Erby Jr.

ProSe Plaintiff

* Additionally, I am requesting that you also please send me
me 2 (two) more copies OF the "waiver OF the Service OF Summons" Form,
and 2 (two) more copies OF the "Notice OF A lawsuit and request to Waive
Service OF a Summons" Form; Due to the fact that the institution I am in does
not have the means for me to copy these form. I need your Court to send
me these additional copies due to the fact that there are 3 (individuals)
named in this lawsuit and I only have one (1) form and I am only able at
this time to serve one (1) OF the named individuals, I need two (2) more
copies OF each form in order for me to be able to serve all three individuals
in this lawsuit. Please send me 2 (two) more copies OF each form so that
I can file them with your Court and serve all parties in this lawsuit.
(One form is enclosed to be served upon Defendant Kevin Ransom.)

Michael Jerome Irby
ClearField County Jail
115 21st Street
ClearField, PA 16830

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JOHNSTOWN PA
20 OCT 2020 PM 2

Clerk OF Courts
United States District Court
United States Courthouse
228 Walnut Street
P.O. Box 983
Harrisburg, PA 17108

RECEIVED
HARRISBURG, PA

OCT 23 2020

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